

As a matter of law, the Settlement Fund in this Rule 23 class action must be for the benefit of the entire Class.

In addition, Trans Union's current position ignores the circumstances involved in this settlement. That is, Trans Union did not need a class action settlement -- or Court approval under Rule 23 -- to set up a fund of its own money that it could use to buy releases only from particular consumers that Trans Union selected. Trans Union paid \$75 million into a fund in order to resolve a nationwide class action lawsuit (and argued for Court approval of the Fund amount). The Fund was established in exchange for the dismissal of a class action, and therefore the Fund must be used for the benefit of the entire Class, because it is the Class' money.

Accordingly, Liaison Counsel urges the Court to reject the idea that the Settlement Fund is solely for the purpose of helping Trans Union buy releases in whatever fashion that Trans Union decides. Instead, Liaison Counsel urges the Court to consider the best interest of the entire Class when ruling on the current Motion.

2. Under This Settlement, the Court Has Retained Jurisdiction Over the Settlement Fund. As in every class settlement that is approved under Rule 23, the Court serves as the fiduciary for the Class, overseeing the settlement process to guard against abuse. *Synfuel Techs. Inc. v. DHL Express USA Inc.*, 463 F.3d 646, 652-53 (7th Cir. 2006); *Mirfasihi v. Fleet Mgt. Corp.*, 450 F.3d 754, 748 (7th Cir. 2006). In this litigation, the need for the Court's oversight is acute, given the potential that the Settlement Fund -- indeed the entire Court-approved settlement process -- might be abused, as the Court has recognized. *In re Trans Union Corp. Privacy Litig.*, 2011 U.S. Dist. LEXIS 26114 at *9-*13 (N.D. Ill. March 14, 2011). To that end, the parties have agreed that the Court has legal custody of the Settlement Fund until it is fully distributed (Settlement Stip., ¶ 2.1(d)).

3. **The Court's Ruling Should Include (Or Be a Part of) A Single Order of Distribution, Issued Now.** In this case, the final distribution of the Settlement Fund raises a number of difficult questions for the Court. The administration of this settlement has involved events that no one anticipated when the Court approved this settlement in 2008. See *In re Trans Union*, 2011 U.S. Dist. LEXIS 26114 at *9-*13. To account for these unexpected contingencies, Liaison Counsel urges the Court to avoid reaching these issues in a piecemeal fashion. That is, we respectfully suggest that the Court exercise its oversight role by making a single distribution ruling now, rather than deciding the distribution in compartmentalized sub-issues, and to issue an Order now that determines:

- (i) what portion of the Settlement Fund goes to Trans Union as a reimbursement for its disposition of Post-Settlement Claims by Class members (§ 2.1(b)(iv) of the Stip. of Settlement);
- (ii) what portion of the Fund is set in reserve for that same purpose (§ 2.1(b)(v) of the Stip. of Settlement); and
- (iii) what portion of the Fund is payable to Class members under the Possible Cash Distribution process (§ 2.1(b)(vi) of the Stip. of Settlement).

In deciding on the allocation in that Distribution Order, the Court may need to rule on whether reimbursements out of the Settlement Fund that result in 50% contingent fees are improper.¹ But regardless of how the Court rules on that question, a single Distribution Order is the best way to ensure that the Settlement Fund is administered in a manner that treats the entire Class fairly. A

¹ For example, if the Court were to allow the attorneys' fees amounts implicit in these 3,400 Post-Settlement Claims, the next group of Post-Settlement Claim Lawyers may use that principle to take more than \$10 million in fees from a comparable distribution on their Post-Settlement Claims. Given the huge impact that such a \$10 million fee would have on the entire Class, the Court may exercise its supervisory authority over the Settlement Fund, by ruling on what payments are proper.

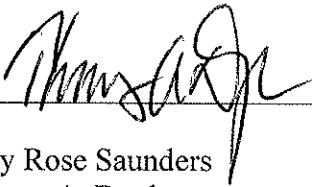
single Distribution Order would provide a transparent conclusion to the administration of the Settlement Fund.

CONCLUSION

Liaison Counsel agrees that MDL Counsel's Motion should be granted. In addition, Liaison Counsel respectfully suggests that the distribution should be handled in a single Distribution Order, which would be issued now, to best ensure that the Settlement Fund is used for the benefit of the entire Class.

May 17, 2011

Respectfully submitted,

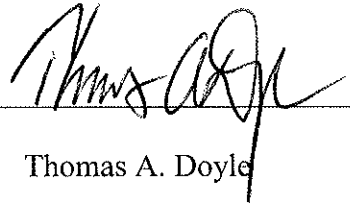
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CERTIFICATE OF SERVICE

I certify that on May 17, 2011, I caused a copy of the foregoing document to be served upon Counsel of Record via the Court's Electronic Case Filing system.

A handwritten signature in black ink, appearing to read "Thomas A. Doyle", is written over a horizontal line. The signature is stylized with a large initial "T" and a long, sweeping flourish at the end.

Thomas A. Doyle